

After reviewing the record and considering the briefs of the parties, the Appeals Board finds, for reasons stated below, that it does not have jurisdiction to review the above issue raised by the respondent. Therefore, the Order of the Administrative Law Judge dated February 3, 1995, remains in full force and effect.

The respondent and the claimant, at the prehearing settlement conference, were unable to agree on the issue of claimant's functional impairment. Accordingly, pursuant to K.S.A. 44-510e(a), the Administrative Law Judge appointed Ronald Zipper, D.O., an orthopedic surgeon, to examine the claimant and issue an opinion regarding claimant's functional impairment.

Respondent appeals from this Order, questioning Dr. Zipper's qualifications as a physician and alleging that Dr. Zipper is not neutral as he is unable to issue an impartial opinion in this matter.

The Order that is the subject of this appeal is an interlocutory order made during the trial of this case. It is neither a final order that can be reviewed by the Appeals Board pursuant to K.S.A. 44-551(b)(1), as amended by S.B. 59, nor does it raise a jurisdictional issue that can be reviewed pursuant to K.S.A. 44-534a(a)(2). This is simply an interlocutory order that the Administrative Law Judge has the authority to make during the trial of a workers compensation case.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent is dismissed as the Appeals Board lacks jurisdiction to review the Order of Administrative Law Judge Alvin E. Witwer appointing Ronald Zipper, D.O., to examine the claimant pursuant to K.S.A. 44-510e(a).

IT IS SO ORDERED.

Dated this ____ day of April, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: D. Scott Brown, Kansas City, KS
Frederick J. Greenbaum, Kansas City, KS
Alvin E. Witwer, Administrative Law Judge
George Gomez, Director